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Ms. Monica Jackson
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue, N.W.
Washington D.C. 20220

Re: **Docket No. CFPB-2011-0040**
Proposed Policy Statement on Disclosure of Certain Credit Card Complaint Data
76 *Federal Register* 76628, December 8, 2111

The American Bankers Association[1] (ABA) is pleased to submit our comments to the Bureau of Consumer Financial Protection's (Bureau) proposed policy statement regarding its disclosure of large bank credit card complaint data that allows public online access to the database identified by issuer.

We appreciate the Bureau's efforts to establish an effective, useful, and reliable consumer complaint process and to work with the credit card industry to enhancethe Bureau's system based on industry feedback and suggestions. We also commend the Bureau on its "Consumer Response Interim Report on its Credit Card Complaint Data," (Consumer Response Interim Report) released November 30, 2011, which provided market-aggregated data based on the complaints filed or referred to the Bureau. The report provided a summary of the complaints received, including the number and percentage of complaints based on the type of complaint, as identified by the consumer, and the percentage of complaints resolved.

ABA recognizes and supports the importance of consumer complaint data to the fulfillment of the Bureau's complaint resolution, financial service provider supervision, and Congressional reporting missions as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). However, we believe that the current proposal has several serious flaws:

- The complaint data are incomplete, unrepresentative, and unverified, and therefore, if released according to specific categories as proposed, an unreliable and misleading source of information about customer experience and satisfaction with the value, reliability, and functionality of any financial product that will mislead consumers.

[1] The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than $165 million in assets.

- Bureau publication of complaint data alone implies an official endorsement of inferences drawn out of context and suggests reliability about overall issuer customer experience and satisfaction that is not well-founded and that invites untrustworthy analysis that will mislead consumers.

- Bureau publication of such unreliable and flawed data undermines a core mission of the Bureau and impugns its supervisory responsibilities.

ABA believes that not only will the flawed data mislead consumers, policymakers, and others, contrary to the Bureau's general mission, releasing the data as proposed is an unwarranted departure from the Dodd-Frank Act priorities of building a system for individual response to consumer complaints, utilizing complaint data for supervisory oversight, and accurately reporting to Congress.Rather than focus its efforts on these priorities as outlined in the statute, the Bureau's proposal expands its role by inventing a new mission of publicly outing information about an issuer's customer experience and satisfaction record—a function that is fundamentally at odds with its obligation to handle confidentially supervisory information.

Rather than pursue this questionable path, ABA urges the Bureau to hold to its course of publishing only aggregate market level data and to work with all stakeholders to improve the quality of the underlying database so that it supports sound analytical reporting that furthers the statutory mission and authorized objectives of the Bureau.If the Bureau believes that other data are necessary to fulfill its other missions, it should invest in obtaining analytically sound, fair accurate meaningful data that can withstand scrutiny and peer review.

Discussion.

The Bureau receives credit card complaints from consumers and the proposed policy statement (Policy Statement) setsforth its proposed initial disclosure of credit card complaint data. Under the proposal, the fields for each complaint will be linked with a unique identifier, enabling reviewers to aggregate the data as they choose, including by complaint type, name of issuer, zip code in which the complainant lives, date of complaint, and whether and how an issuer responded. Complaint types and characterization of issuer response are based on the Bureau's classification definitions.At least until the Bureau can conduct further study, it will exclude consumers' narratives description of "what happened" and of "fair resolutions" as well as an issuers' narrative responses.

We agree that there are significant consumer, public policy, and other benefits associated with ensuring consumers are given "timely and understandable information to make responsible decisions about financial transactions" and helping the credit card market to "operate transparently and efficiently" and that reliable, accurate data are important to assist interested parties in the evaluation of the credit card marketplace. However, we do not believe that providing access to the Bureau's consumer complaint database and allowing links between complaints and specific fields, such as issuer name,as proposed is consistent with Congressional intent, nor will it advance the general mission and

goals of the Bureau. Given the limitations and shortcomings of the data that are likely to mislead rather than enlighten consumers and policy makers, releasing data with links tospecific fields as proposed will be a disservice rather than assistance to consumers, public policy makers, and others. Ultimately, the Bureau may be undermining its pledge to be data-driven by publicizing unvalidated, anecdotal evidence that is not a valid representation of overall customer experience with a product or provider.

Rather, to obtain more robust data and to further Congress's and the Bureau'sgoals of providing information useful to consumers about credit card use and helping the credit card market to "operate transparently and efficiently," the Bureau should work toward investing resources to obtain analytically sound, fair, accurate, meaningful data that can withstand scrutiny and peer review. Ultimately, this is the most effective means for identifying trends, measuring consumer understanding of and satisfaction with their credit card cards, and determining appropriate regulatory and supervisory changes or actions.

The Bureau's primary goal in disclosing the credit card complaint data should be to use the data as Congress directed in Section1013 (b) of the Dodd-Frank Act (12 U.S.C. 5493(b))that is, for individual response to complaints, supervisory insight, and reports to Congress. Once there is experience with the data, a more informed decision could be made about the value of using the data for other purposes.

Also, the Bureau should act in a manner so that it does not facilitatethe misuse of its datato unfairly label issuers or damage their reputation or financial stability.Unfairly or inaccurately labeling issuers not only harms issuers, it also misleads consumers, to their detriment. Nor should the Bureauignore or fail to minimize the potential for the system to be abused or misused for political and other purposes or by individuals with ulterior motives or unjustified demands for which other customers ultimately pay.

The Bureau's initial market-aggregated Consumer Response Interim Report provides an appropriate method for disclosing complaint data going forward. The Bureau should not release the complaint database fields as proposed given:

- Its own declarations that it will be "data-driven." Releasing data that are based on a very small fraction of credit card accounts and are anecdotal, not-representative, and often inaccurate hinders the ability of the Bureau to act on reliable, relevant, objective data;
- The severe limits and deficiencies of the information that may mislead rather than inform consumers;
- Congressional intent, which was that the data be used to provide individual response to consumers, give supervisory insight, and report to Congress;
- The potential misuse of the data that may unfairly damage issuers' reputation; and
- The lack of due process.

To achieve its mission to ensure "consumers are provided with timely and understandable information to make responsible decisions about financial transactions" and help the credit market to "operate transparently and efficiently," the Bureau should invest resources to obtain analytically sound, fair, accurate, and meaningful data that can withstand scrutiny and peer review.

The Bureau staff has repeatedly declared that Bureau will be data-driven in its decisions. Raj Date, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau, testifying before the Subcommittee on Financial Institutions and Consumer Credit, Committee on Financial Services, United States House of Representatives on November 2, 2011, stated:

> I will conclude by explaining how we will approach every issue that we work on. . . we are committed to ***basing our judgments on research and data analysis***. We will not shoot from the hip. We will not reason from ideology. ***We will not press a political agenda.*** Instead, we are going to be fact-based pragmatic, and deliberative."(Emphasis added.)

We therefore encourage the Bureau to invest the resources to obtain the credit card data necessary to achieve its goals, rather than rely on what it acknowledges is a flawed database, as discussed below, which will lead to misleading and inaccurate conclusions that thwart rather than advance its goals and mission. The aggregated credit card complaint information is useful for reporting to Congress and for assisting examiners in focusing their examinations, as Congress contemplated. However, that information is not reliable or useful in achieving the Bureau's other goals to assist consumers in financial transactions and to help the credit market operate transparently and efficiently. More robust, reliable data that can withstand peer review and scrutiny are necessary to achieve those goals.

The Bureau should continue to use the data as contemplated by Congress and report market-aggregated data, identifying the types and numbers of complaints as it did in its Consumer Response Interim Report. However, the Bureau should not release data according to specific fields, suggesting that it may be used for particular purposes or to draw certain conclusions when the data cannot support such use or conclusions.

We strongly recommend that the Bureau focus on using the data for the purposes Congress contemplated, that is, for consumer response, supervisory insight, and Congressional reports. The specific statutory mandate to develop a system for consumer complaints derives from Section 1013(b)(3) of the Dodd-Frank Act:

> (A)The Director shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate the centralized ***collection of, monitoring of, and response*** to consumer complaints regarding consumer financial products or services. (Emphasis added.)

(C) The Director shall present an annual ***report to Congress*** not later than March 31 of each year on the complaints received by the Bureau in the prior year . . . such report shall include information and analysis about complaint ***numbers, complaint types***, and where applicable, information about ***resolution*** of complaints." (Emphasis added.)

(D) To facilitate preparation of the reports required under subparagraph (C), supervision and enforcement activities, and monitoring of the market for consumer financial products and services, the Bureau shall ***share consumer complaint information with prudential regulators***, ***the FTC, other Federal agencies, and state agencies***, subject to the standards applicable to Federal agencies for protection of the confidentiality or personally identifiable information and for data security and integrity. (Emphasis added.)

In addition, Section 1016(c) (4) of the Dodd Frank Act (12 U.S.C.5496 (c)(4)) provides that the Bureau must report to Congress "an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year."

This mandate outlines the intended purpose of the complaint system, specifying "collection of, monitoring of, and response to" consumer complaints, reporting to Congress about complaint "numbers, complaint types, and where applicable, information about resolutions of complaints," and sharing complaint information with other regulators. It says nothing about reporting to Congress or making available to the public aggregate complaint data based on various fields such as the name of individual financial institutions.

Instead of relying on the statutory provision establishing the mandate to provide a consumer complaint system to determine how to make the data available, the Bureau relies on statutory provisions that outline its general power to provide consumers "with timely and understandable information to make responsible decisions about financial transactions" and helping the credit card market to "operate transparently and efficiently," provisions unrelated to the provisions requiring and explaining the reasons for obtaining complaint data.[2]However, as discussed below, the data do not help to achieve the objectives and goals of these sections.

In support of its proposed methodology, the Bureau refers to the experience of other federal agencies such as the National Highway Traffic Safety Commission (NHTSA) and the Department of Transportation's Office of Aviation Enforcement and Proceedings (OAEP). With respect to the former, the fact that Edmunds has complied NHTSA complaint data is not indicative that such data are useful, complete, or relied upon by consumers. It would appear that other more comprehensive surveys (such as those conducted by J.D. Power and others) are cited far more frequently with respect to car quality. With respect to OAEP, it would appear that the OAEP's data set is more robust that the Bureau's credit card complaint data. That does not remedy the fact the OAEP data have flaws that the Bureau could easily remedy by constructing a more reliable data set. In addition, though in theory, comparing the

[2] Sections 1021 (b)(1) and (5) of the Dodd-Frank Act. (12 U.S.C. 5511(b)(1) and (5))

credit card complaint data to the airline complaint data may be appealing, credit cards are more complicated and the complaints more varied than an airline trip so that the complaint categories become more vague and broad – and less meaningful.

> ***Because of the lack of reliability, accuracy, and relevance of the data, the data will not achieve the Bureau's general statutory mission to promote the statutory goals of providing consumers "with timely and understandable information to make responsible decisions about financial transactions" or to help the credit card market to "operate transparently and efficiently."***

When applied to market-aggregated data, the innate flaws of the data are diluted, but when broken down by various categories, such as by name of issuer or complainant zip code, the data are misleading to consumers and unfair to issuers. If consumers were to shop or make credit card decisions based on the data, the shortcomings will mislead rather than enlighten them. And contrary to the Bureau's expectations, it is unlikely that issuers will use them for competitive reasons due to their lack of reliability and credibility.

The data are flawed because they are non-random, non-representative, and derived from a very small sample. The Bureau itself admits that the data are non-random, that the complainants' and issuers' version of facts differed, and that the complaints are non-representative, representing a very small fraction of credit card accounts. The Bureau notes on page 4 of its Consumer Response Interim Report, "There are a large volume of complaint cases in which the issuer and consumer present conflicting factual accounts." In the Supplementary Information to the proposed Policy Statement, it observes:

> Credit card complaints, of course, are not necessarily representative of the experience of all consumers with a particular credit card product or issuers. Rather the credit card complaints submitted to the Bureau represent the experience of a non-random subset of credit card consumers: those who view themselves as aggrieved by an action or inaction of an issuer, who were unable to obtain satisfactory relief from the issuer (or who elected not to seek such relief), and have chosen to appeal to the Bureau for assistance.[3]

Indeed, based on the Bureau's data, the complaints about which the Bureau has reported represent ***one thousandth of one percent of credit card accounts***.[4][5]

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[3] 76 FR 76630.

[4] See Bureau press release, December 7, 2011 "Consumer Financial Protection Bureau Aim to simplify credit card agreements," "There are an estimated 514 million credit cards in circulation in the United States." The Bureau reported 5,074 complaints (including "172 pending with consumer" (3.4%), 394 (7.8) "pending with CFPB" and 254 incomplete (5%) in its "Consumer Response Interim Report on CFPB's Credit Card Complaint Data." (November 30, 2011).

[5] "The Director shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year . . . such report shall include information and analysis about complaint numbers, complaint types, and where applicable, information about ***resolution*** of complaints." (Emphasis added.) (Section 1013(b)(3)(C) of the Dodd-Frank Act (12 U.S.C. 5493(b)(3)(C)).

The characterizations of the complaints are inaccurate and unreliable. Further compromising the validity, probity, and value to the public of the data is that the characterization of the complaints is self-selected, vague, and inconsistently interpreted and applied. The customer selects how to categorize the complaint based on the list the Bureau provides. Neither the Bureau nor the issuer may change the categorization. The 32 categories are broad and undefined. Many are unrelated to any legal or contract issue. Issuers report that complaints are often mischaracterized or unrelated to the issuer. To illustrate the lack of accuracy and vagueness of the characterization:

- Billing disputes, a large category representing 13% of complaints, often relate to merchant performance, services, or products, not a complaint about the issuer.

- "Application processing delay" complaints do not indicate consumer expectation and whether it is reasonable, e.g., an expectation of virtually instant processing.

- Customer service complaints might include complaints that the wait to speak to a representative was too long or that one was not available during non-business hours, whether or not those expectations were reasonable.

- Advertisements and marketing complaints embrace a wide variety of complaints beyond a complaint that a mailed offer– or television advertisement -- is misleading, e.g., that the person receives too many mailed offers or that the person doesn't like the content or the actor in a particular marketing campaign.

- One issuer reports that its highest percentage of complaints falls under the category of "Identity theft/fraud/embezzlement," but most of those complaints relate to merchant disputes, filed by one attorney filing on behalf of card holders about a single merchant.

Many of the 32 categories involve multiple problems and without context, offer little insight. Accordingly, releasing the data in the granular form proposed may mislead consumers as well as others trying to analyze the data. In any case, the Bureau should either explain better the meaning of the categories to complainants or categorize the complaints itself to improve the accuracy of the data.

Other reasons that the data may be misleading to consumers and the public and unfair to issuers are that the validity of the complaint is not verified and neither the reasonableness nor the justification of the complainant's demand is reflected in the data. Nor are issuers' views of the characterization of the complaint or their version of the facts adequately reflected in the database. Releasing unverified data and linking it to a specific issuer without presenting the issuer's view deprives the issuer of due process, subjects them to undeserved reputational harm, and may put them at a competitive disadvantage.

The rate of resolutions will often not be accurate or reliable. Further, as the Bureau notes, the rate of resolution, if broken out by issuer, may not be meaningful. It notes, "If an issuer has a relatively low rate of offering responses that consumers accept, that may reflect its failure to respond to legitimate grievances. However, it may instead reflect that the issuer has effective internal complaint processes and/or low-complaint products." [6]In other words, if an issuer addresses legitimate grievance well so that only those with questionable complaints file with the Bureau, it may have a higher percentage of "no relief granted."

The number of complaints may be artificially inflated*.* We also note that the complaint numbers can be artificially inflated, which will lead to inaccurate and misleading data if broken out by issuer. Already, an issuer has reported that a third party has filed multiple claims of unauthorized transactions as a strategy for clients to avoid responsibility for authorized transactions and automatically files a complaint with the Bureau as well, even though there is no valid complaint. There will be other ways that the number of complaints may be artificially inflated.

It will not be possible to put the data aggregated by issuer or zip code into context in a meaningful manner. In addition, as the Bureau observes, for the data to be informative to consumers, context is important. For example, the relative size or number of accounts of the credit card business would have to be compared to the number of complaints to be meaningful. However, as a practical matter, this is difficult to do, given the diverse nature of the complaints, which may or may not be filed by or on behalf of someone with an account. Clearly, open accounts would be included in any calculation. However, because complaints also include complaints about closed accounts, (4.4% in the Bureau's Consumer Response Interim Report) closed accounts would have to be captured in some form. In addition, complaints include those about accounts not being opened. (A credit card number is not required to file a complaint.) Complaints about advertisements and marketing (e.g., too many solicitations, do not like or understand the advertisement) may also not involve an open account. Somehow, the calculation for normalizing the data would have to take into account the complaints from those without an account.

Further complicating normalization, as the Bureau notes, is the fact that "some products may, by their very nature, have higher complaint rates than others, even across all issuers that offer them. As a result, these products could cause issuers' complaint incidence to vary more by product mix than by performance." Private label cards are an example. Issuers report that private label cards have a higher incidence of complaints related to the merchant. People are less likely to relate the merchant to the issuer in the case of general purpose cards, so such cards receive fewer merchant complaints. If the complaint volumes for these two types of credit cards differ substantially, data will be skewed because different issuers have different portfolio make-ups. Lumping private label and general purpose credit cards together and applying a general average to normalize data may favor an issuer with almost no private label portfolio.

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6 76 FR 76631.

With market-aggregated data, the shortcomings and distortions of normalization are not as pronounced or as relevant as they are when the data are broken down by issuer. In the case of the latter, they are much more acute and therefore the database information more unfair, misleading, and harmful to both consumers and issuers.

Other distortions to the data include the fact that some issuers may retain accounts that have been written off, while others send them to collection. If data are disclosed by issuer, then their "collection debt disputes" and "collection practices" will be artificially inflated.

Releasing the complaint information by zip codes is also problematic. Complaints might be inflated by zip code because, for example, a debt counselor who, as a strategy routinely files complaints for clients, is particularly active in a particular neighborhood. Or a business district is identified by zip code as a low income area when in fact few people reside in the area and the "consumer" accounts are held by small businesses. There are many valid reasons for the incidence of complaints to vary by zip code, and our concern is that it will lead to inaccurate, negative, misleading, and unfair damaging conclusions. For example, if the zip codes associated with certain complaints correspond to an area with a high concentration of people with characteristics of a protected class, it invites unsubstantiated accusations and unfair reputational harm. Use of the Home Mortgage Disclosure Act(HMDA) data is illustrative. While serious researchers and analysts agree that information from HMDA reports alone cannot be used to conclude that a creditor has discriminated illegally, headlines and press reports have frequently done so, to the detriment of potential borrowers and to lenders. Given the shortcomings of the credit card complaint data discussed, such an interpretation will be even more misleading and inaccurate. Of course, the Bureau and other agency examiners should investigate further if zip codes associated with credit card complaints of a particular issuer suggest an inappropriate trend.

While we strongly discourage the Bureau from allowing complaints to be linked to various fields such as the name of the issuer, if it proceeds to do so as proposed, to help lessen the impact of the defects, the Bureau should put the data into context by including each issuers': (1) number of open accounts; (2) number of closed accounts with a balance; (3) number of accounts without a balance closed within the last 12 months; and (4) number of declined accounts for the last 12 months. In addition, we urge the Bureau to adopt a mechanism to put into context credit card complaints unconnected to an account, such as those involving advertising complaints and account denials. Otherwise, the data are significantly misleading and the relative number of complaints inflated.

The Bureau acknowledges that the data aggregations may not be useful and suggests that it might not release data in any given period if there are an insufficient number of complaints:

> The precise data aggregations that Bureau publishes will depend on our assessment of what conclusions can fairly be drawn from the data for a given reporting period. It is possible, for example, that we will not receive enough credit card complaints in any given time period to generate useful information with respect to some potential aggregations. If sample sizes are too small, variations across issuer, time, and subject matter may not reflect statistically significant

patterns and trends. We will be mindful of these statistical significance issues in determining what types of trend and pattern data to report and on what schedule."[7]

We are not sure the practicality or usefulness of sporadically making the data available based on such criteria. Once the Bureau allows access to its data aggregations, it establishes a precedent, and politically it will be difficult for it to refrain from continuing to allow access. In addition, if it chooses to make the database available in some quarters or years, but not others, based on the number of complaints in the period, the data flow becomes erratic and even more questionable in value to "academics" and others.

Use of the term of "relief" and the Bureau's definition of it significantly colors and distorts the data. The Bureau's adoption of the phrase and definition of "with relief" and "without relief" further distorts the data by inflating the percentage of complaints that were unresolved and coloring the interpretation of the data. Use of the term "relief" and its current definition seem designed to result in artificially high negative statistics, with a low percentage of "closed with relief." Such an artificial slant against issuers serves to promote erroneous conclusions that will mislead rather than enlighten consumers and policy makers.

Under the Bureau's revised "Company portal manual" issued November 21, 2011, issuers must categorize their response. If resolved, they must classify the complaint as either "closed with relief" or "closed without relief.""Relief" is defined as "objective, measurable, and verifiable monetary value to the consumer as a direct result of the steps you have taken or will take in response to the complaint." Issuers must describe any relief and enter the dollar amount of that relief.

First, Section 1013(b)(C) of the Dodd-Frank Act (12 U.S.C. 5493(b)(1)(C)) relating to "research" asks that the Bureau provide Congress with reports on "resolutions" of complaints, not reports about "relief" granted.[8]Congress did not expect that all complainants would be provided or entitled to "relief" and certainly not as currently defined, that is, monetary relief expressed as a dollar amount.

Second, the definition of relief, i.e., monetary compensation, does not fit with many of the complaints so will artificially inflate the number of complaints designated as "closed without relief" and understate the percentage of customers who are satisfied or whose case was resolved. In many cases, monetary relief is neither sought nor responsive to the complaint. For example, if the complaint asserts inaccurate reporting to a credit bureau, monetary relief is not the appropriate response. Similarly, monetary relief is not usually appropriate with regard to many of the 32 types of complaints the Bureau lists in its Consumer Response Interim Report, such as those about advertisements and marketing, customer service, privacy, rewards, application processing delays, credit line increases or decreases, forbearance, payoff processes, sale of account, credit determination, unsolicited issuance of credit card, or other non-fee complaints related to cash advances, balance transfers, and convenience checks. It is

7 76 FR 76631

not clear that even a reduction in the APR qualifies as "relief" because it applies prospectively and cannot be captured as a dollar amount in an open-end account where the amount of the balance is subject to change based on the customers' choices.

Third, the term "relief" is an emotionally charged term, suggesting that all complainants are in distress and victims, which simply is not the case. The label alone, without connection to the underlying facts, serves as judgment, which may well be unfair and inaccurate.

Finally, the distortions are even more pronounced, misleading, and unfair if complaints will be accessible and linked to specific fields such as the name of the issuer. Even if the Bureau lists all the conditions and limitations of the definition, experience has shown that they are often overlooked or ignored when reported. However, the damage will be done. The bell cannot be unrung. Moreover, a government agency presenting flawed data and then disclosing elsewhere a long list of its multiple shortcomings and conditions raises questions about the reasons the data are being released.

Whether or not the Bureau allows access to the database and links to the various fields, we strongly urge it to revert to its previous classification of issuers' response and use the term "resolution" rather than the recently adopted "relief" and not require that a complainant receive a monetary reward in order for the complaint to have been considered resolved.

The data are too unreliable and flawed to promote the Bureau's goals and mission. In sum, providing access to the database and links between the complaint and various fields will not assist consumers "with timely and understandable information to make responsible decisions about financial transactions" nor help the credit card market to "operate transparently and efficiently." Nor will it "illuminate important patterns or trends in the marketplace." The database is simply too unreliable and flawed. The sample is too small, the complaints non-random, unrepresentative, anecdotal, and often inaccurate, and the categories overly broad, vague, and subject to abuse. Rather than inform consumers, policy makers, and the public, the database will mislead them.

The Bureau should not release narratives without addressing significant issues. The value of the database is more questionable if narratives are released. The Bureau states that until further study can be conducted, it will not disclose narrative data fields "because of the privacy risk to individual consumers." However, it will study the feasibility of redacting personal identification information to minimize the risk of identification. It seeks comment on the value of providing narrative fields, including the issuers' response.

Releasing the narrative data fields, especially given the flaws of the data as discussed above, presents other issues, including those of privacy, reliability, and fairness. Clearly, privacy is a prime concern, as the Bureau observes. People may be reluctant to file a complaint if they are unsure that their privacy will be protected. Or, for fear of being identified, they may omit helpful information that will facilitate a quick resolution of their complaint. Even if the identification fields are omitted, it will be a challenge to redact all information to ensure that it is not possible to identify the complainant in the

narrative. As the Bureau notes, the narratives may contain detailed and "idiosyncratic" information that may allow reviewers to identify the complainant. The complaints may also identify (directly or indirectly) people other than the complainant and reveal sensitive information about them. Any system should ensure the privacy of not only the complainant, but others who might be discussed in the complaint.

We agree with the Bureau that giving complainants a choice might alleviate some of the privacy issues, and we strongly recommend that they be given a choice. However, giving complainants a choice will not protect non-complainants discussed in the complaint, for example. Whether the choice is opt-in or opt-out will depend on the clarity and visibility of the privacy notice.

In addition to privacy concerns, releasing the narrative may also, as the Bureau notes, "expose issuers to reputational harm from potentially inaccurate, misleading, or incomplete narratives." Issuers may welcome the opportunity to present their version of events, but may be chilled from doing so because of concerns about customer relationships and the potential for lawsuits. The result may be that the issuers' narrative is more sparse and less informative and helpful, both to the complainant and to those reviewing the data.

> ***For both non-narrative and narrative complaint information, public discussion will not overcome innate shortcomings of the proposal and will lead to misinformation, to consumers' detriment. The data will not "let outside parties identify trends and patterns that they believe may help inform consumer decisions about credit cards," as the Bureau contemplates.***

As noted, the Bureau itself has acknowledged the shortcomings of the data. It attempts to minimize these shortcomings, by noting that "careful researchers" "may be able to discern information that is useful and relevant" from the flawed data set and that "groups dedicated to empowering consumers in making well-informed decisions" might be able to derive some valid meaning. However, the proposal is not designed for the benefit of "careful researchers" or "groups dedicated to empowering consumers in making well-informed decisions" attempting to navigate a flawed and incomplete data set. Legitimate academics and analysis will not use it because it is so demonstrably unreliable and flawed. And indeed, Congress did not contemplate such use. The Bureau's stated intent – with which we agree—is to provide information that consumers and others could use, presumably in a relatively easy and straightforward manner. Given this intent, it is not clear why it would want to rely on intermediaries to attempt to interpret flawed information for consumers.

Moreover, even if academics and others were able to use the database for thoughtful analysis, it is more likely to be used for headlines or politics. As discussed earlier, that has been the experience with HMDA data. The credit card complaints themselves have already been used to justify a proposed model credit card contract for all accounts-- despite the fact that the complaints represent one thousandth of

one percent of credit card accounts.[9] In addition, many will make the assumption that because the database is provided by the Bureau, (notwithstanding any qualifications or cautions the Bureau states elsewhere) the data are valid and reliable for purposes of drawing certain conclusions -- even though they are not. Even if some in the "marketplace of ideas" ultimately recognize the flaws and limits of the data, reputations will have been irreparably damaged and issuers potentially punished in the marketplace.

Certain complaint information should be kept confidential.

We agree with the Bureau's proposal not to disclose confidential consumer complaint information including the name, full address, or credit card account number associated with any credit card complaint as well as any information that could enable the complainant to be identified by any party other than the issuer of the credit card. Consumer privacy and sensitive financial information that may be used to facilitate fraud must be protected. In addition, making such information publicly available would clearly inhibit consumers from filing a complaint or providing critical information.

The Bureau has requested comment on the interplay between the proposed Policy Statement and the possible application of the requirements of section 552(a)(2)(D) of the Freedom of Information Act (FOIA). We note that a January 12, 1991 Comptroller of the Currency Interpretive Letter (attached) held that the disclosure of the name of national banks contained in consumer complaints is not required under FOIA. The letter explains that the bank's name relative to complaints is confidential because it may cause competitive harm to the bank because the data may result in distorted interpretation. In addition, the letter notes that it would impair the ability of the government to collect information in the future and may make banks less willing to provide information (National Parks v. Morton 498 F.2d 765 (D.C. Cir. 1974). We believe that those reasons apply equally to the Bureau's consumer complaint database. Given the unreliability and flaws of the credit card complaint database and the potential for distortion and unfair and potentially significant harm to issuers, as discussed above, FOIA does not require disclosure of the names of credit card issuers contained in consumer complaints. Moreover, disclosing it may inhibit issuers from providing information in the future.

Conclusion.

ABA appreciates the opportunity to comment on this important matter. We agree with the Bureau that reliable and accurate data are important in fulfilling the Bureau's missions and goals in ensuring that consumer receive "timely and understandable information to make responsible decisions about financial transactions" and helping the credit card market to "operate transparently and efficiently." We urge the Bureau to obtain that analytically sound, fair, accurate, and meaningful data that can withstand peer review, consistent with its pledge to be "data-driven." However, releasing the credit card complaint

[9] See the Bureau's press release of December 7, 2011 releasing proposed model credit card contract: "And as indicated in a recent Bureau report on credit card complaints received by the Bureau from July 21, to October 21, 2011, difficult understanding the terms of their cards is a contributing factor in many consumer complaints."

data as proposed and allowing links between complaints and data fields will not help to further the Bureau's mission. To the contrary, releasing data it knows to be flawed and subject to distortion will mislead consumers, policy makers, and others interested in empowering consumers in making well-informed decisions. In addition, it will unfairly and without due process punish and harm credit card issuers. The Bureau should instead use that data as Congress anticipated, that is, for consumer response, supervisory insight, and reports to Congress.

We appreciate the Bureau's efforts to respond to the industry's concerns and to improve the credit card complaint process. We look forward to continuing to engage with the Bureau and are happy to provide additional information.

Regards,

Nessa Eileen Feddis

1991 WL 338374 (O.C.C.)

Office of the Comptroller of the Currency (O.C.C.)
OCC Interpretive Letter

Banking Research Digest (c) BRG, Inc.
January 14, 1991

BRD SECTIONS:

***1** 630

TOPICS:

Freedom of Information Act

LAWS:

5 U.S.C. Section 552

BRG DIGEST:
Denial of appeal regarding request for disclosure of the names of national banks contained in consumer complaints previously released to requester, based upon FOIA exemptions 4 and 8.

This is in response to your letter of December 11, 1990, received by the Office of the Comptroller of the Currency ("OCC") on December 14, 1990, appealing the partial denial of your request for documents under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In your original letter of October 25, 1990, you sought copies of "all consumer complaints relating to (a) interest rate computations, or adjustments (on loans, accounts, or otherwise), (b) credit terms, (c) late charges, and/or (d) escrow account practices. In addition, your letter stated that you agreed "to pay fees incurred in processing this request, up to $10" and asked that the OCC call you "before exceeding that amount."

Later, in a telephone conversation, Gene Ullrich of the OCC's Compliance Management Division informed you that $10 would be the cost for obtaining a single complaint. Consequently, you narrowed your request to those consumer complaints received in the OCC's Washington Office during 1990, only. Mr. Ullrich also explained that the identity of both the individual consumers and the banks mentioned in these documents would probably be withheld. In addition, in a conversation with Lynnette M. Carter, Public Information Specialist, you consented to pay for the retrieval and copying of all of the consumer complaints located pursuant to this request.

On November 29, 1990, Frank D. Vance, Jr., Disclosure Officer for the OCC, provided you with documents responsive to your request, although certain information in the documents was redacted on the basis of FOIA exemptions 4 and 6, 5 U.S.C. §§ 552(b)(4) and (b)(6). See also 12 C.F.R. § 4.16(b)(4) and (b)(6). These documents included both consumer complaints and responses of the banks against whom the complaints were lodged. Your letter of appeal challenges the OCC's "deletion of the names of the financial institutions from the records supplied in response to the above request under purported authority of the (b)(4) and (b)(6) exemptions," however, you "do not challenge the deletion of information identifying the consumers" in the documents provided.

In accordance with 12 C.F.R. § 4.17a, Mr. Vance's determination to withhold the names of the financial institutions mentioned in the documents supplied to you was reviewed and his decision has been affirmed. In addition to Exemption 4, which was relied upon by Mr. Vance, names of the financial institutions may also be withheld under FOIA exemption 8, 5 U.S.C. § 552(b)(8); see also 12 C.F.R. § 4.16(b)(8).

Please note that Mr. Vance cited exemption 6 of the FOIA in his response as the basis for his deletion of information which would have identified the consumers who had authored the complaints supplied to you. Exemption 6 authorizes the non-disclosure of "personnel and medical files and similar files disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6); see also 12 C.F.R. § 4.16(b)(6). Mr. Vance determined that the documents released to you contained personal financial information on individual consumers, thus identification of the consumers mentioned in these documents would have constituted a clearly unwarranted invasion of personal privacy. See Dept. of the Air Force v. Rose, 425 U.S. 352 (1976). Based upon the assertion in your appeal that you do not challenge the redaction of this information, it is not exemption 6, but only the OCC's use of exemption 4, and now exemption 8, to withhold the names of the financial institutions referenced in the documents which is now at issue.

Exemption 4: Confidential Business Information

***2** Exemption 4 is designed to protect the privacy and competitive position of a person who supplies information to a government agency. See Bristol-Meyers Co. v. Federal Trade Commission, 424 F.2d 935, 938 (D.C. Cir.), cert. denied, 400 U.S. 824 (1970). Exemption 4 applies to two categories of information in federal agency records:
1. trade secrets, or

2. information which is

a. commercial or financial, and

b. obtained from a person, and

c. confidential or privileged.

See 5 U.S.C. § 552(b)(4); see also 12 C.F.R. § 4.16(b)(4). The OCC withheld the information you requested on the basis of the second category of exemption 4 which extends to commercial and financial information.

Each aspect of the second category must be satisfied to qualify for this exemption from disclosure. The first factor is easily satisfied in the instant case. The term "commercial" has been broadly construed to mean anything "pertaining or relating to or dealing with commerce." American Airlines, Inc. v. National Mediation Board, 588 F.2d 863, 870 (2d Cir. 1978). Business interests are included within this protection. See National Parks and Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974). Here, the information withheld relates to the business interests of banks.

Second, the term "person" is defined in the Administrative Procedure Act, 5 U.S.C. § 551 et seq., of which FOIA is a part, as "an individual, partnership, corporation, association or public or private organization other than an association or public or private organization other than an agency." 5 U.S.C. 552(2). Banks are corporations and thus fall within the definition of person.

Third, the courts have adopted a two-part test of confidentiality under exemption 4. Information may be withheld when disclosure would either (1) impair the ability of the government to collect such information in the future or (2) harm the competitive position of the entity that provided it to the agency. See National Parks, 498 F.2d at 770.

It is determined in this appeal that the information you have requested is confidential not only because disclosure may impair the ability of the OCC to collect such information in the future, but also because disclosure may cause competitive harm to the banks from whom the information was received. The courts have tended to resolve issues of competitive harm on a case-by-case basis rather than by establishing general guidelines. Actual competitive harm need not be demonstrated for purposes of the competitive harm prong; evidence of "actual competition and a likelihood of substantial competitive injury" is all that need be shown. CNA Financial Corp. v. Donovan, 830 F.2d 1132, 1152 (D.C. Cir. 1987), cert. denied, 485 U.S. 977 (1988); see also Gulf & Western Industries v. United States, 615 F.2d 527, 530 (D.C. Cir. (1979); accord Journal of Commerce, Inc. v. Department of the Treasury, No. 86-1075, slip op. at 4 (D.D.C. June 1, 1987) (submitter not required to document or pinpoint actual harm, but need only show its likelihood) (partial grant of summary judgment), renewed motion for summary judgment granted.

***3** While the interest rates and escrow requirements of the individual banks discussed in the documents supplied to you may be publicly known and do not constitute proprietary information, it is concluded that release of the bank names associated with individual complaints could result in a distorted interpretation of the information provided and result in competitive harm to a bank which had provided the information to the OCC. A significant number of complaints relating to a given bank might create the false impression that the bank was responsible for a disproportionate share of violations. In fact, the bank might have no more than its expected share of complaints, given not only its asset base but also the nature and number of individual banking transactions in which it was engaged in 1990. Thus, the bank's interest in maintaining its competitive position could be damaged by disclosure of the bank's identity in connection with alleged violations of consumer laws.

In addition to the two prong test of confidentiality described above, the National Parks court left open the possibility of a third test of confidentiality that would protect other governmental interests, such as program effectiveness. See National Parks, 498 F.2d at 770, n.17. Release of the information requested could hinder the OCC's ability to promote safe and sound banking practices through the agency's consumer complaint monitoring program which has been designed as a means to enforce consumer laws and regulations.

The National Parks court made specific reference to the 1963 FOIA hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on Judiciary, 88 Cong., 1st Sess. 200, where the problems of compliance and program effectiveness were discussed as possible governmental interests served by the exemption. The program effectiveness prong mentioned in National Parks was then fully endorsed in 9 to 5 Organization for Women Office Workers v. Board of Governors of the Federal Reserve System, 721 F.2d 1 (1st Cir. 1983). There, the First Circuit expressly admonished against using the two prongs of National Parks as "the exclusive criteria for determining confidentiality" and held that the pertinent inquiry is whether public disclosure of the information will harm an "identifiable private or governmental interest which the Congress sought to protect by enacting exemption 4 of the FOIA." 9 to 5, 721 F.2d at 10.

The D.C. Circuit subsequently embraced the program effectiveness prong in Critical Mass Energy Project v. NRC, 830 F.2d 278 (D.C. Cir. 1987). Upon remand from the D.C. Circuit's decision in Critical Mass, the district court found the requested information to be properly withheld pursuant to the program effectiveness prong. Critical Mass Energy Project v. NRC, 731 F. Supp. 554, 557 (D.D.C. 1990). The district court found that if the requested information was disclosed, future submissions would not be provided until they were demanded under some form of compulsion which would then have to be enforced, precipitating acrimony and some form of litigation and attendant expense and delay. See Critical Mass Energy Project v. NRC, 731 F. Supp. 554, 557. The court reasoned that all of this would result in a deterioration of the relationship between the agency and the submitter, who instead of being "collaborators in a quest for optimum industry safety," would become if "not outright antagonists ... at best ... mistrustful of one another's initiatives or overtures." Critical Mass Energy Project v. NRC, 731 F. Supp. 554, 557. This threatened deterioration in the relationship was found to constitute a sufficient showing that the efficiency and effectiveness of the agency's operations would be harmed by disclosure.

***4** The OCC is charged with the responsibility of investigating consumer complaints against national banks. See 15 U.S.C. § 57a(f)(1). The OCC relies upon the unimpeded flow of information from the banks that it regulates in order to carry out its supervisory functions. The data gathered from banks as part of the complaint monitoring system plays an integral part in the bank examination process. If the OCC were to permit public disclosure of the information that banks supply as part of the consumer complaint monitoring process, banks would be less willing to volunteer information which is particularly helpful and the regulatory efficiency of the OCC would be impaired. Thus, the information you have requested may be withheld as confidential under the three tests for confidentiality described above.

Exemption 8: Financial Records

The names of the financial institutions contained in the complaints may also be withheld under Exemption 8. This exemption covers matters "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." See 5 U.S.C. § 552(b)(8). See also, 12 C.F.R. § 4.16 (b)(8). It is not limited to reports regarding the financial solvency or stability of particular financial institutions.

The security of the banking system as a whole was the primary focus of the provision. See S. Rep. No. 813, 89th Cong., 1st Sess. 10 (1965).

This policy of confidentiality has been exercised by the Comptroller's Office since its establishment in 1863 and has been repeatedly supported by Congress since that time. See H.R. Rep. No. 1497, 89th Cong., 2d Sess. 11 (1966). See also S. Rep. No. 813, supra. The United States Court of Appeals for the District of Columbia has affirmed exemption 8's broad protective scope. See Gregory v. Federal Deposit Insurance Corporation, 631 F.2d 896, 898 (D.C. Cir. 1980).

The scope of exemption 8 is not limited only to formal examination reports. The legislative history strongly implies that all records, regardless of source, relating to a bank's financial condition and operations and in the possession of a federal agency responsible for the regulation or supervision of financial institutions are exempt. See McCullough v. Federal Deposit Insurance Corporation, 1 Gov't Disclosure Service ¶ 80,194 at 80,495 (D.D.C. 1980). Following Congress' all-inclusive statutory language and clear legislative intent, the courts have consistently construed exemption 8 broadly. See, e.g., Gregory, 631 F.2d 896; Consumers Union of the United States, Inc. v. Heimann, 589 F.2d 531, 533, 535 (D.C. Cir. 1978); Sharp v. Federal Deposit Insurance Corporation, 2 Gov't Disclosure Service ¶ 81,107 (D.D.C. 1981); Atkinson v. Federal Deposit Insurance Corporation, 1 Gov't Disclosure Service ¶ 80,034 (D.D.C. 1980).

***5** By including within the scope of exemption 8 documents “related to” examination reports, Congress has exempted not only the report but also documents that “represent the foundation of the examination process, the findings of such an examination, or its follow up.” Atkinson, 1 Gov't Disclosure Service at ¶ 80,102.

In a case involving the OCC which addressed an issue similar to that which you have raised, a non-profit organization representing consumers sued the OCC under FOIA to obtain access to documents regarding consumer complaints pertaining to alleged violations of the Fair Credit Billing Act. The OCC released a printout with the information requested, but relied on exemption 8 of the FOIA to delete from the printout charter numbers identifying the banks about which each complaint was made. The court granted summary judgment to the OCC and stated

irrespective of the fact that consumers provided the information to defendant [the OCC] and that disclosure of the identities of the banks against which complaints were made probably would not undermine public confidence, the portion of the computer printout to which plaintiff seeks access falls under exemption 8 because this information is directly derived from and ‘contained in ... examination reports ... prepared by, ... and for the use of’ defendant.

See Consumers Union of the United States, Inc., v. Office of the Comptroller of the Currency, No. 86-1841, slip op. at 2-3 (D.D.C. March 11, 1988).

As noted in the above-mentioned case, exemption 8 is not limited to financial soundness concerns. Documents relating to a bank's compliance with consumer laws and regulations have been held to “fall squarely within the exemption.” Atkinson, 1 Gov't Disclosure Service at ¶ 80,103; see also Consumers Union v. Office of the Comptroller of the Currency, slip op. at 2-3; Consumers Union v. Heimann, 589 F.2d at 535.

The information that you requested represents the foundation of the examination process and relates to a bank's compliance with consumer laws and regulations. Thus, the identity of the banks named in the consumer complaints supplied to you may be withheld under exemption 8.

Other Issues

First, you have noted that other financial institution regulatory agencies from which you have requested this type of information do not delete the names of institutions from consumer complaints. Its a general matter, agencies subject to the Freedom of Information Act may exercise the discretion to authorize disclosure of information which could be withheld under a FOIA exemption. See, e.g., 12 C.F.R. § 4.16(c); 12 C.F.R. § 309.6(c). Although the OCC is not bound by determinations made by other agencies, the OCC separately could elect to release some of the information you have requested pursuant to 12 C.F.R. § 4.16(c). However, I do not believe that taking such action in this case would comport with the policy underlying exemption 8, in particular.

***6** In drafting exemption 8, Congress recognized the need to effectively preserve the confidential relationship between banks and their federal regulators. See Consumer's Union v. Heimann, where the court stated, "[A] secondary purpose in enacting exemption 8 appears to have been to safeguard the relationship between the banks and their supervising agencies. If details of bank examinations were made freely available to the public and to banking competitors, there was a concern that banks would cooperate less than fully with federal authorities." 589 F.2d at 534. I believe that these considerations outweigh the public's interest in obtaining the requested information with only the names of the consumer deleted. Thus, the OCC will not waive the absolute protection accorded to bank supervisory records under the FOIA.

Second, you have asserted that no financial institution could expect that consumer complaints concerning it will remain unknown to the public in view of the fact that the consumers wrote to a multiplicity of governmental agencies and to their representatives in Congress. Several courts have had occasion to consider whether agencies have a duty to disclose classified information which has purportedly found its way into the public domain. In this regard, courts have held that, in asserting a claim of prior public disclosure, a FOIA plaintiff "bears the initial burden of pointing to specific information in the public domain that appears to duplicate that being withheld." See Afshar v. Department of State, 702 F.2d 1125, 1130 (D.C. Cir. 1983). It has also been held that the court need not place the burden upon a agency to prove secrecy of disputed documents but rather "[i]t is far more efficient, and ... fairer, to place the burden of production on the party who claims that the information is publicly available." Cf. Occidental Petroleum Corp. v. SEC, 873 F.2d 325, 342 (D.C. Cir. 1989). Accordingly, your claim that the information you have requested is already publicly available does not defeat the OCC's determination that the requested information is confidential and may not be disclosed.

Third, you note that in some cases the complaints in question were forwarded to the Comptroller by other agencies. The fact that consumers may have written to many other agencies does not relieve the OCC of its responsibility to protect the confidentiality of information received about the banks it regulates. Furthermore, prior circulation of a document among agencies does not necessarily constitute public disclosure nor does it result in a waiver of the ability of an agency to assert an exemption. See e.g., Chilivis v. SEC, 673 F.2d 1205, 1211-12 (11th Cir. 1982).

Fourth, you maintain that some of the complaints apparently were the subject of Congressional inquiries. You then assert that "[c]ertainly, if the Controller [sic] will release complaints against a named financial institution, no institution subject to its jurisdiction could possibly believe that complaints against it are confidential." In this regard, the United States Court of Appeals for the District of Columbia Circuit ruled that

***7** to the extent that Congress has reserved to itself in section 552(c) the right to receive information not available to the general public, and actually does receive such information pursuant to that section (whether in the form of documents or otherwise), no waiver occurs of the privileges and exemptions which are available to the executive branch under the FOIA with respect to the public at large.
Murphy v. Department of the Army, 613 F.2d 1151, 1156 (D.C. Cir. 1979). See also Moon v. CIA, 514 F. Supp. 836 (S.D.N.Y. 1981). The Murphy court also stated that there is no basis in the statute for distinguishing for "FOIA purposes between a congressional committee and a single Member acting in an official capacity." Murphy at 1157. Therefore, in the present case, to the extent that any of the information you requested was released to a member of Congress, its release did not constitute a waiver of the FOIA exemptions cited.

Finally, you have appealed the assessment of fees "in excess of the maximum amount to which you agreed." In fact, as mentioned above, Mr. Ullrich and Ms. Carter discussed the matter of fees with you. You instructed them to proceed with a search for documents received by the Washington Office in 1990, knowing that the names of both consumers and banks were likely to be redacted from the documents provided.

The FOIA Reform Act of 1986 established a new fee structure for FOIA requests which includes three levels of fees. See 5 U.S.C. § 552(a)(4)(A) as amended by P.L. 99-570, § 1803 (1986). Under the FOIA Reform Act, the Office of Management and Budget ("OMB") was charged with the responsibility of promulgating a "uniform schedule of fees" for individual agencies to follow.

OMB published a fee schedule which allows agencies to "recoup the full allowable direct costs they incur." See 52 Fed. Re. 10,012, 10,018 (March 27, 1987). The first level of fees includes charges for "document search, duplication and review, when records are requested for commercial use." 5 U.S.C. § 552(a)(4)(A)(ii)(I). The OMB Fee Guidelines define the term "commercial use" as "a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is being made," which can include furthering those interests through litigation. OMB Fee Guidelines, § 6g, 52 Fed. Reg. at 10017-18. I note that your request for information is related to a matter which may be the subject of litigation.

The second level addresses fees for requests by educational or noncommercial scientific institutions and the third level of fees applies to all other requesters, while the third level permits "reasonable standard charges for document search and duplication." 5 U.S.C. § 552(a)(4)(A)(ii)(III). Agencies may charge for search time even if they fail to locate any records responsive to the request or even if the records located are subsequently determined to be exempt from disclosure. OMB Fee Guidelines, § 9b, 52 Fed. Reg. at 10019. See also Cheek v. IRS, No. 83-C-6851, slip op. at 2 (N.D. Ill. June 11, 1984). Even if your request were not for a commercial use subject to the first level of fees described above, your request would fall into this third category. Thus, I believe that the OCC is entitled to reimbursement for the search and duplication of the documents you received, even though the documents provided may not have contained the "key information" that you are seeking.

Judicial Review

***8** If you wish to contest this denial of your appeal, you may obtain judicial review of this decision in the "district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia," by filing a complaint with the appropriate court. 5 U.S.C. § 552(a)(4)(B).
Sincerely,

Paul Allan Schott
Chief Counsel

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